



BEFORE THE MADURAI BENCH OF MADRAS HIGH COURT
DATED :09.03.2015
CORAM

THE HONOURABLE MR. JUSTICE C.T.SELVAM

Crl.O.P. (MD) No.20989 of 2014

WEB COPY

1.N.Prabhu
2.S.Rajaprabhu
3.R.Muthukumar
4.M.Santhakumari

..Petitioners

Vs

1.The Superintendent of Police,
Sivagangai District,
Sivagangai.

2.The Inspector of Police,
Devakottai Taluk Police Station,
Devakottai, Sivagangai District.

3.The Inspector of Police,
C.B.C.I.D.,
Sivagangai.

..Respondents

Prayer: Petition filed under Section 482 of Cr.P.C. to directing the first respondent to transfer the further investigation to the third respondent, the Inspector of Police, CBCID, Sivagangai or any other impartial agency as per the order dated 16.04.2014 in Crime No.116 of 2013 on the file of the Judicial Magistrate Court, Devakottai and file a final report afresh.

For Petitioners : Mr.S.Kanagarajan

For Respondents : Mr.K.V.Rajarajan
Govt. Advocate

ORDER

The petitioner seeks a direction for transfer of investigation in Cr.No.116 of 2013 on the file of the second respondent police. The case is registered for offences under Sections 147, 148, 341 and 302 of IPC.

2.The petitioner had moved Crl.O.P.(MD)No.7241 of 2013, seeking transfer of investigation and this Court, by order dated 27.08.2013, passed an order, recording the submission of the learned Government Advocate (Crl.side) that the investigation almost was completed and final report would be filed before the Court concerned within three weeks and granting liberty to the petitioner to approach the appropriate forum for appropriate relief. Thereafter, charge-sheet was filed on 20.12.2013 and notice was ordered to the defacto complainant/first petitioner herein. Upon hearing both sides, the learned Judicial Magistrate, Devakottai passed an order on 16.04.2014, directing further investigation. It was noted that the FIR had been altered striking out the name of Ramasamy, which was specifically mentioned therein and substituted with the word 'us'. The petitioners' contention is that the assailants had set upon the deceased raising the question if he was



engaging in politics by opposing Ramasamy. The same had been altered to as if the deceased was engaging in politics against them. While directing further investigation, the learned Magistrate required the Superintendent of Police to entrust such further investigation to a competent official and the submission of further report, within a period of 30 days.

3. On completion of such further investigation, a report under Section 173(8) has been filed after examination of additional witnesses informing that there are no materials to implicate the said Ramasamy. The same has been taken on file on 12.06.2014 and the case is now pending committal in P.R.C.No.16 of 2014, on the file of the Judicial Magistrate, Devakottai.

4. Learned counsel for the petitioner submits that as against the direction of this Court requiring monitoring of the investigation by the Superintendent of Police, further investigation has been conducted in an improper manner and the final report has been filed confirming the position informed in the original final report. Though Ramasamy is the person behind the occurrence, he has not been arrayed as accused. Investigation in the case has been unfair and hence, it is appropriate to direct transfer of investigation.

5. We note that in directing further investigation by an order dated 16.04.2014, the learned Judicial Magistrate, Devakottai had taken note of the orders of this Court dated 06.01.2014, whereunder, the Superintendent of Police was expected to monitor the investigation. This Court in passing orders on 06.01.2014 was not apprised of the fact that a final report had already been filed on 20.12.2013. Further investigation has been conducted in keeping with the orders of the learned Magistrate. The report therein has been filed before the Magistrate concerned and the same has found acceptance and the case is pending committal.

6. Though learned counsel for the petitioner sought to impress upon this Court that one Kathamuthu, who is an eye-witness to the occurrence, specifically had been informed as a person directly involved in the alleged occurrence, such person wrongly had been left of. Many are the cases, where some persons are implicated by some of the witnesses examined, while others inform their non-involvement. It is the finding of the investigating officer that the said Kathamuthu and his wife were attending to their shop at the time of occurrence and thereafter, like other shop-keepers they too had shut shop and proceeded home. This Court sees no merits in the petition and accordingly, the same shall stand dismissed with an observation that it always would be open for the Court concerned to proceed under Section 319 Cr.P.C., if the evidence gathered in the course of trial informs of a probability of finding others guilty.

Sd/-
Assistant Registrar(AE)



To

1.The Superintendent of Police,
Sivagangai District,
Sivagangai.

2.The Inspector of Police,
Devakottai Taluk Police Station,
Devakottai, Sivagangai District.

3.The Inspector of Police,
C.B.C.I.D., Sivagangai.

4.The Additional Public Prosecutor,
Madurai Bench of Madras High Court,
Madurai.

Copy to:

The Judicial Magistrate,
Devakkottai.

+1cc to Mr.S.Kanagaraajan,Advocate, SR.No.11798

Cr1.O.P. (MD) No.20989 of 2014
09.03.2015

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